



#3

Attorney Docket No: COAD-004/01US

PATENT

DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name:

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

APPARATUS AND METHOD FOR CONTROLLING OPTICAL GAIN PROFILES

the specification of which:

□ is attached hereto;

[X] was filed as United States Application Serial No. 10/007,326 on December 5, 2001.

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above:

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information which is known to me to be material to the patentability of said invention in accordance with 37 C.F.R. §1.56;

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

60/306,663
(Application Number)

July 19, 2001
(Filing Date) (day, month, year)

(Application Number)

(Filing Date) (day month year)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Jack R. KELLY

Inventor's signature Jack R. Kelly

Date

4/3/02

Residence: Stow, Ohio

Citizen of: United States of America

Post Office Address: 2623 Golden Gate Circle, Stow, Ohio 44224

Full name of second inventor: Haiji J. YUAN

Inventor's signature Haiji J. Yuan

Date

4/1/02

Residence: Cupertino, California

Citizen of: United States of America

Post Office Address: 10705 Minette Drive, Cupertino, California 95014

Full name of third inventor: Qingyu (Tom) LI

Inventor's signature Qingyu (Tom) LI

Date

04/01/02

Residence: Cupertino, California

Citizen of: United States of America

Post Office Address: 10554 Santa Lucia Road, Cupertino, California 95014

Full name of fourth inventor: Hudson WASHBURN

Inventor's signature Hudson Washburn

Date

4/01/02

Residence: Santa Clara, California

Citizen of: United States of America

Post Office Address: 2251 Park Avenue, Santa Clara, California 95052

Attorney Docket No: COAD-004/01US



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Jack R. KELLY, et al.

Serial No.: 10/007,326

Examiner: Not yet assigned

Confirmation No.: 2028

Art Unit: 2874

Filed: December 5, 2001

For: APPARATUS AND METHOD FOR CONTROLLING OPTICAL GAIN PROFILES

Commissioner for Patents
 Washington, D.C. 20231

**POWER BY ASSIGNEE
 AND STATEMENT UNDER 37 C.F.R. §3.73(b)**

The Assignee of the entire right, title, and interest in the above-identified application hereby grants the registered practitioners of Cooley Godward LLP included in the Customer Number provided below power to act, prosecute, and transact all business in the U.S. Patent and Trademark Office in connection with this application, any applications claiming priority to this application, and any patents issuing therefrom.

The Assignee certifies that to the best of its knowledge and belief it is the owner of the entire right, title, and interest in and to the above-identified application as evidenced by:

- An assignment document, a copy of which is enclosed herewith;
- An assignment previously recorded in the U.S. Patent and Trademark Office at Reel __, Frame __.

Please direct all telephone calls and correspondence to:

COOLEY GODWARD LLP
ATTN: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Tel: (650) 843-5000
Fax: (650) 857-0663

CUSTOMER NUMBER: **23419**

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the Assignee.

Date: 4/1/02 Signature: 
Name: **Haiji J. Yuan**
Title: **President & CEO**
Company: **Coadna Photonics, Inc.**

Attorney Docket No: COAD-004/01US

COPY

PATENT

**ASSIGNMENT
(Joint)**

Jack R. KELLY, residing at 2623 Golden Gate Circle, Stow, Ohio 44224;
Haiji J. YUAN, residing at 10705 Minette Drive, Cupertino, California 95014;
Qingyu (Tom) LI, residing at 10554 Santa Lucia Road, Cupertino, California 95014;
Hudson Washburn, residing at 2251 Park Avenue, Santa Clara, California 95052 (each referred to as "Assignor") have made an invention(s) (the "Invention(s)") set forth in an application for patent of the United States, entitled:

APPARATUS AND METHOD FOR CONTROLLING OPTICAL GAIN PROFILES

and which is a:

non-provisional application
(a) to be filed herewith; or
(b) bearing Application No. 10/007,326, and filed on **December 5, 2001**.

WHEREAS, **Coadna Photonics, Inc.**, a corporation duly organized under and pursuant to the laws of **California**, and having its principal place of business at **90 Great Oaks Boulevard, Suite 203, San Jose, California 95119** (the "Assignee"), is desirous of acquiring the entire right, title, and interest in: the Invention(s); the application for patent identified in paragraph (1) or (2); the right to file applications for patent of the United States or other countries on the Invention(s); any application(s) for patent of the United States or other countries claiming priority to these application(s); and any patent(s) of the United States or other countries that may be granted therefor or thereon.

NOW, THEREFORE, for good and sufficient consideration, the receipt of which is hereby acknowledged, and to the extent that the Assignor has not done so already via a prior agreement with the Assignee, or if the Assignor has already done so via a prior agreement with the Assignee then in confirmation of any obligation to do so in said prior agreement, the Assignor has sold, assigned, transferred, and set over, and by these presents does sell, assign, transfer, and set over, unto the Assignee, its successors, legal representatives, and assigns, the Assignor's entire right, title, and interest in:

- (a) the Invention(s);
- (b) the application for patent identified in paragraph (1) or (2);
- (c) the right to file applications for patent of the United States or other countries on the Invention(s), including all rights under the Paris Convention for the Protection of Industrial Property and under the Patent Cooperation Treaty;
- (d) any application(s) for patent of the United States or other countries claiming the Invention(s);

(e) any application(s) for patent of the United States or other countries claiming priority to the application for patent identified in paragraph (1) or (2) or

any application(s) for patent claiming the Invention(s), including any division(s), continuation(s), and continuation(s)-in-part; and

(f) any patent(s) of the United States or other countries that may be granted for or on any application for patent identified in the preceding paragraphs (b) – (e), including any reissue(s) and extension(s) of said patent(s).

The above-granted rights, titles, and interests are to be held and enjoyed by the Assignee, for its own use and behalf and the use and behalf of its successors, legal representatives, and assigns, as fully and entirely as the same would have been held and enjoyed by the Assignor had this sale and assignment not been made.

The Assignor hereby represents to the Assignee, its successors, legal representatives, and assigns, that, at the time of execution and delivery of these presents, or if applicable, at such time said prior agreement was executed, the Assignor is a lawful owner of an undivided interest in the entire right, title, and interest in and to the Invention(s), that the Invention(s) are unencumbered, except, if applicable, by obligation to assign in accordance with said prior agreement, and that the Assignor has good and full right and lawful authority to sell and convey the same in the manner set forth herein.

The Assignor hereby covenants and agrees to and with the Assignee, its successors, legal representatives, and assigns, that the Assignor will sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done in connection with any and all proceedings for the procurement, maintenance, enforcement and defense of the Invention(s), said applications, and said patents, including interference proceedings, without charge to the Assignee, its successors, legal representatives, and assigns, but at the cost and expense of the Assignee, its successors, legal representatives, and assigns.

The Assignor hereby authorizes and requests the attorneys of COOLEY GODWARD L.L.P. to insert in the spaces provided above the filing date, the application number, and the attorney docket number of the application identified in paragraph (1) or (2) when known.

The Assignor hereby requests the Commissioner of Patents to issue said patents of the United States to the Assignee for the sole use and behalf of the Assignee, its successors, legal representatives, and assigns.

Attorney Docket No.: COAD-004/01US

Application Serial No.: 10/007,326

Page 3

Date: 4/3/02

By: Jack Kelly
Jack R. KELLY

Date: 4/1/02

By: Haiji J. Yuan
Haiji J. YUAN

Date: 04/01-02

By: Qingyu (Tom) Li
Qingyu (Tom) LI

Date: 4/1/02

By: Hudson Washburn
Hudson WASHBURN

Attorney Docket No: COAD-004/01US

PATENT



Applicant: Jack R. KELLY, et al.

Serial No.: 10/007,326

Filed: December 5, 2001

For: APPARATUS AND METHOD FOR CONTROLLING OPTICAL GAIN PROFILES

**ASSERTION OF ENTITLEMENT TO SMALL ENTITY STATUS UNDER
37 C.F.R. §1.27 - SMALL BUSINESS CONCERN**

I hereby declare that I am:

- the owner of the small business concern identified below;
- an official of the small business concern empowered to act on behalf of the concern identified below;

Name of Small Business Concern: **Coadna Photonics, Inc.**

Address of Small Business Concern: **90 Great Oaks Boulevard, Suite 203
San Jose, California 95119**

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 C.F.R. §121 for purposes of paying reduced fees under 35 U.S.C. §§41(a) and (b), in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both;

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled and described in:

- the specification filed herewith;
- the application identified above; or
- the patent identified above;

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 C.F.R. §1.27(a)(1) or by any concern which would not qualify as a small business concern under 37 C.F.R. §1.27(a)(2) and 13 C.F.R. §121 or a nonprofit organization under 37 C.F.R. §1.27(a)(3):

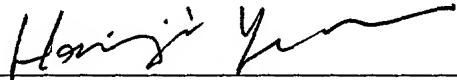
Name:

Address:

Individual Small Business Concern Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. §1.27(g))

Signature



Date

4/1/02

Name of Person Signing

Haiji J. Yuan

Title of person other than owner

President & CEO

Address of person signing

**90 Great Oaks Boulevard, Suite 203
San Jose, California 95119**